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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 3 - 1996

In the Matter of)

Implementation of the Local Competition)
Provisions of the Telecommunications Act)
of 1996)

CC Docket No. 96-98

REPLY COMMENTS OF BELL ATLANTIC NYNEX MOBILE, INC.

Bell Atlantic NYNEX Mobile, Inc. (BANM), by its attorneys, submits these Reply Comments on the number administration issues involving area code relief plans which were raised by the Commission's Notice of Proposed Rulemaking in this proceeding (FCC 96-182, released April 19, 1996).

Section II(E) of the Notice summarizes the Commission's administration of the North American Numbering Plan and its actions with regard to area code relief. The Commission states that, while it has exclusive jurisdiction over area code and other numbering issues, it has delegated to states the authority to adopt area code relief plans, as long as those plans are consistent with Commission guidelines. The Notice thus proposes "leaving to the states decisions related to the implementation of new area codes subject to the guidelines enumerated in the Ameritech Order."¹ (Notice at ¶ 256.)

¹Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, 10 FCC Rcd. 4596 (1995).

Most comments on numbering administration support the Commission's existing area code policy. Various state commissions, LECs, and other carriers concur that the Commission's current approach is legally correct and is in the public interest.² They correctly note that states are in the best position to develop area code relief plans that are tailored to the particular needs of their residents, but that it is equally important for the Commission to intervene promptly when any state departs from federal numbering policies prohibiting discrimination against any type of carrier. BANM agrees. The record fully supports the Commission's present policy of allowing states to select specific relief plans, subject to Commission oversight. The Notice's tentative conclusions, which reiterate existing policy, are right and should be affirmed.

Several commenters, however, request that the Commission take a far more activist role in area code relief, and prohibit the states from adopting "overlay" plans, at least unless number portability and mandatory ten-digit dialing exist.³

²See, e.g., Comments of Pennsylvania Public Utilities Commission at 5 (states are in best position to address local numbering concerns); Time Warner Communications Holdings, Inc. at 19 (FCC's current policies should be followed); U S West, Inc. at 2 (new area codes should be implemented by the states subject to Ameritech); SBC Communications Inc. at 11 (state commissions should be allowed to decide between overlay or geographic split); BellSouth at 19-20 (current federal/state balance is correct; states should retain ability to select among various NPA exhaustion solutions); Cellular Telecommunications Industry Ass'n at 5-6; Pacific Telesis Group at 24; General Communication, Inc. at 5.

³Comments of Cox Communications at 3; MCI Telecommunications Corp. at 11-12; MFS Communications at 7; National Cable Television Ass'n at 9; Teleport Communications Group at 7.

BANM disagrees, and urges the Commission not to take the specific preemptive action that these commenters request.

Prohibiting overlays would ignore the fact that the costs imposed by the alternative area code relief solution, geographic splits, are particularly severe for wireless carriers and their customers. Geographic splits can thus be viewed as discriminatory against one type of carrier.

Unlike landline phones, whose NPA codes can be converted from central switching offices, every wireless phone to be reassigned a new area code must physically be returned to the carrier and manually reprogrammed. This is because the NPA code and phone number are programmed into each individual phone. Number conversion thus causes substantial inconvenience to the customer, who must take the unit to a retail outlet or repair center in order to have it reprogrammed. The cost to BANM of complying with one previous geographic area code split was estimated at approximately \$40 per phone. In state area code relief proceedings, other wireless carriers have noted the substantial burdens and costs they incur in physically reprogramming customers' equipment, including the need to staff retail facilities, train technicians, and advertise to customers.⁴

⁴The burdens on wireless carriers of complying with geographic splits have been documented in various state proceedings. E.g., Request for New Jersey Board of Public Utilities Commission Guidance on Area Code Relief Plans in New Jersey, Docket No. TO96020132; Application of the Southern New England Telephone Company to Investigate Alternative Methods for Providing Area Code 203 Relief, Docket No. 94-11-21 (Connecticut Department of Public Utility Control).

BANM thus disagrees with the claim of certain commenters that geographic splits are competitively neutral and non-discriminatory. Wireless carriers and their customers, more than landline carriers and customers, face significant costs and disruptions whenever a geographic split is ordered, and these harms -- specific to one type of carrier -- may implicate the legality of area code splits under Ameritech just as certain overlay plans may. None of the parties which request that geographic splits be required for all area code situations grapple with this problem.⁵

Prohibiting overlays would also not serve the public interest because it would ignore the reality that, in an increasing number of area code exhaustion situations, overlays can be the best long-term and lowest-cost solution. The insatiable demand for new numbers for second phone lines, PBX systems, pagers, computers, or other devices is outpacing the ability of geographic splits to accommodate that demand. Many metropolitan areas are being divided and sometimes redivided into multiple geographic area codes, to the point where drawing the new code boundaries necessarily divides economically integrated

⁵Conditioning the use of overlays on number portability and ten-digit dialing would effectively prohibit them. To BANM's knowledge, no market currently has full number portability and ten-digit dialing. Declaring ab initio that no overlays can be imposed where those features are not fully available would thus be tantamount to banning overlays, which would undermine both the Ameritech Order's acceptance of overlays that comply with Commission policy, and the long-standing Commission approach of allowing the states to craft relief plans that meet the needs of their residents.

markets. Each subdivision imposes significant costs on those customers who must change their area code. Yet this solution may only be a palliative. In Philadelphia, for example, which implemented a split barely one year ago, impending exhaustion of that metropolitan area's NPA codes may force the addition of still more area codes next year.

Overlays avoid these problems. No existing customers need to convert their phones or numbers and incur the related expense (or customer confusion and potential loss of business). Moreover, new codes can be added whenever they are needed without disrupting any subscribers, unlike geographic splits, which must be redrawn, forcing some customers to change their numbers numerous times. While customer confusion exists with overlays, it also exists with geographic splits, particularly (as is becoming more frequent) where a metropolis has to be divided in halves or thirds to accommodate new NPA codes.⁶

The Commission should not close the door on NPA overlays when in many states it may be the best solution to area code relief. Instead, it should allow the

⁶See, e.g., Comments of Paging Network, Inc. at 20-21 (noting customer confusion and other problems with geographic area code splits and benefits of overlays). BANM agrees with PageNet that the Commission must continue to prohibit service-specific overlays as well as any other aspects of overlay plans that discriminate against wireless carriers.

states to select that option, and oversee that process to ensure that overlays are imposed in a non-discriminatory manner.⁷

In short, overlays are less burdensome, costly and disruptive to wireless customers and carriers than geographic splits. Which exhaustion solution serves the overall public interest in a particular state cannot be determined ab initio, but must be decided based on the facts of that specific situation. The Commission has already adopted principles to ensure competitive neutrality and, as many commenters noted, those principles must be retained.⁸ But there is no reason to go further to adopt a per se prohibition against overlays. The Commission has ample remedies to invoke to prevent discriminatory overlay plans, while still allowing them to be employed as the best long-term solution to area code exhaustion.

Considering specific new rules governing area code relief here is ill-advised as well as unnecessary, given the Commission's task of completing action in this rulemaking in little more than two months. The extremely limited administrative record in this rulemaking on the merits of various area code relief plans is also

⁷For example, earlier this year the Maryland Public Service Commission adopted an overlay plan. It found that subjecting Maryland customers to another geographic split, so soon after the last split in 1992, would not be in the public interest. It also determined that an overlay was not discriminatory because all new numbers would be provided on a first-come, first-served basis.

⁸SBC Communications Inc. at 11 (wireless-only overlays should continue to be prohibited); CTIA at 7; Vanguard Cellular Systems, Inc. at 5.

clearly inadequate to base action that would bar states from adopting overlays. Should the Commission decide that additional consideration of generic area code relief issues is warranted, it can consider them further at a later date through a specific rulemaking proposal or request for declaratory ruling.

Respectfully submitted,

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